

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF PUERTO RICO

3 UNITED STATES OF AMERICA,

4 Plaintiff,

5 v.

6 DAVID ALBERTO PAGAN-CIURO (34),

7 Defendant.

Crim. No. 05-429 (JAF)

8 O R D E R

9 I.

10
11 The Defendant, David Alberto Pagán-Ciuro, is charged, along with
12 sixty-five other individuals, in a one-count Indictment for having
13 joined a conspiracy to possess with intent to distribute five
14 kilograms or more of cocaine, fifty grams or more of crack cocaine,
15 one kilogram or more of heroin, and measurable amounts of marihuana.
16 The facts of the case took place in the town of Santa Isabel and the
17 city of Ponce, both located in the Southern part of the island of
18 Puerto Rico.

19 The Indictment alleges that the members of the conspiracy
20 purchased and sold narcotics from different locations in and around
21 Santa Isabel and Ponce, including several wards or "barrios" and
22 housing projects. Drug distribution points were established which
23 could only be operated by authorization from the leaders of the
24 conspiracy. The operation of these drug distribution points would

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1 pay rental to the leaders in exchange for their franchise-type
2 operations in the distribution locations.

3 The Indictment also alleges that the members of the conspiracy
4 would possess firearms in order to protect themselves, the narcotics,
5 and the drug proceeds from other competing drug organizations. There
6 are specific allegations that firearms were possessed within one-
7 thousand feet from public schools. The Indictment also alleges that
8 this was a violent organization that would engage in beatings and the
9 killing of individuals intervening with the swift operation of the
10 narcotics distribution organization.

11 Defendant David Alberto Pagán-Ciuro is described in the
12 Indictment as a runner and drug processor. He is charged in a
13 specific overt act with having possessed a loaded nine millimeter
14 pistol with two magazines. He is also described as having drug
15 dealings with one of the leaders and organizers, Jason Reyes-Miranda,
16 regarding the purchase of crack cocaine.

17 The areas of Santa Isabel and Ponce have been the object of
18 intense law-enforcement efforts by both Commonwealth and Federal law-
19 enforcement authorities. The court takes judicial notice of the fact
20 that large-scale narcotics trafficking and related violent incidents
21 are a common occurrence in this area of Southern Puerto Rico.

22 The Defendant has had several incidents involving criminal
23 conduct, ranging from arrests for controlled substances and illegal
24 firearms offenses to a felony charge of domestic violence. The

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1 Pretrial Services Department conducted a background investigation on
2 Defendant and recommended to the court that he be detained without
3 bail, inasmuch as he represents a danger to the safety of the
4 community, there being no condition of combination of conditions that
5 would eliminate that risk or the reasonable risk of failure to appear
6 at future judicial proceedings.

7 An Initial Detention Hearing was held before a magistrate judge
8 of this court. Counsel for the Defendant conceded to the magistrate
9 judge that as of the date in which that hearing was held,
10 December 14, 2005, he had no evidence to rebut the presumption that
11 the Defendant would flee or pose a danger to another person or the
12 community. The presiding magistrate found the Defendant to pose a
13 danger to persons or the community in the context of the Bail Reform
14 Act.

15 II.

16 The Defendant requested a de-novo bail hearing which was held on
17 March 27, 2006. At the hearing, the Defendant presented no evidence.
18 The government presented the testimony of a police officer and
19 proceeded to proffer some of the information appearing from the
20 Indictment, the fact that there are several informants or cooperating
21 witnesses ready to testify at trial in support of the charged
22 conduct, and also the fact that during an execution of a search
23 warrant conducted by the Puerto Rico police during the period of the
24 charged conspiracy, Defendant was found to be in possession of a

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1 stolen nine-millimeter pistol and was observed by a police agent
2 distributing narcotics and associating himself with one of the
3 leaders in this conspiracy, Luis E. Santiago-Báez.

4 It is not difficult to conclude for the purposes of bail
5 analysis that the sixty-six known members of this conspiracy, in
6 operation from 1998 until 2005, engaged in narcotics trafficking in
7 kinds and amounts of narcotics that trigger a statutory minimum
8 imprisonment term of at least ten years with a maximum of life
9 imprisonment. When one further considers Defendant's history of
10 arrests and convictions, his association with leaders of the
11 conspiracy, and his possession of a stolen firearm, the rebuttable
12 presumptions established by law are strengthened against the
13 Defendant.

14 In this case, the Defendant has advanced no facts or
15 circumstances to this court that would detract from the presumption
16 that bail should be denied. Evidently, the Defendant poses a danger
17 to the safety of the community where he lives and to persons who may
18 testify as witnesses in this case. The court will not take any
19 chance of harm to persons or the community motivated by the criminal
20 element behind this huge conspiracy that has greatly affected the
21 quality of life and the tranquility of Santa Isabel and Ponce.

22 The Defendant will remain detained without bail pending trial.

23 **IT IS SO ORDERED.**

24 San Juan, Puerto Rico, this 27th day of March, 2006.

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S/José Antonio Fusté
JOSE ANTONIO FUSTE
Chief U. S. District Judge

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